

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 1999-019062

10/03/2006

HONORABLE RUTH H. HILLIARD

CLERK OF THE COURT
L. Gilbert
Deputy

ROOSEVELT ELEMENTARY SCHOOL
DISTRICT #6, et al.

TIMOTHY M HOGAN

v.

JANE D HULL, et al.

SUSAN PLIMPTON SEGAL

WILLIAM A RICHARDS

MINUTE ENTRY

Defendant State of Arizona's Motion for Summary Judgment has been under advisement. The Court, having considered all memoranda submitted and the arguments of counsel, finds and orders as follows.

At issue in this motion for summary judgment is whether plaintiffs' claim is ripe at this time, whether plaintiffs must prove that the Students FIRST system is unconstitutional as applied to every public school district or only as applied to them and whether the Students FIRST system has caused any facility needs related to academic performance to be unmet.

Initially the Court notes that Hull v. Albrecht, 192 Ariz. 34, 960 P.2d 634 (1998) requires that the funding for a "general and uniform public school system" under Article XI, Section 1 of the Constitution requires that "... 1) the state must establish minimum adequate facility standards and provide funding to ensure that no district falls below them;" and 2) "the funding mechanism chosen by the state must not itself cause substantial disparities between districts." 192 Ariz. at 37, 960 P.2d at 637. The minimum facility standards that must be established and funded are those "...facilities and equipment necessary and appropriate to enable students to master the

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educational goals set by the legislature or by the State Board of Education pursuant to the power delegated by the legislature.” Hull v. Albrecht, 190 Ariz. 520, 524, 950 P.2d 1141, 1145 (1997).

The Legislature has declared that “...the facilities and equipment necessary and appropriate to enable students to achieve academic standards...are exclusively the facilities and equipment addressed by the “Facilities Board in its Minimum Guidelines”. 2002 Ariz. Sess. Laws (2d Reg. Sess.), ch. 330, §61(C).

Plaintiffs argue that the state’s formula for funding Students FIRST is unconstitutional because the state has failed to fund the statutory formula as mandated by the legislature and, as a result, the plaintiff public school districts are unable to meet the minimum guidelines for facilities needed to allow the public school students to meet the academic guidelines set for them.

Initially this Court will address the issue of whether plaintiffs must prove that every public school district is harmed by the manner in which the state has funded the Students FIRST system or whether plaintiffs’ evidence as to their own problems due to insufficient funding is enough to allow this case to proceed further. Plaintiffs have argued that Judge Downie has already ruled on this issue and her ruling is the law of the case.

The Court finds that there has not been a binding ruling by Judge Downie on this issue, as her comments were made in passing in response to a discovery issue. Even if Judge Downie had ruled on the issue, this Court would be obligated to review the ruling in order to assure that there would not be fundamental unfairness in following the decision.

This Court finds that plaintiffs are not required to prove that all 226 public school districts are unable to meet minimum facility standards due to the funding scheme in place. Instead, the Court finds that plaintiffs may rely on their own funding issues in order to proceed and to attack the constitutionality of the Students FIRST funding scheme.

Defendant State of Arizona has urged that its Motion for Summary Judgment must be granted at this time since plaintiffs have not depleted all available sources of funding available from the State. In fact, plaintiff Sierra Vista applied for emergency funding from the state and, to date, no response to this application for additional funding has been made known to this Court.

Plaintiffs urged, in their response to the Motion for Summary Judgment, that the only source of funding to meet the Minimum Guidelines is the Building Renewal Fund. Defendant denies this, however, and asserts that the State provides school districts with Maintenance and Operation monies and certain capital funds which can be used, in part, to meet Minimum facility Guidelines. In addition, the Students FIRST legislation provides for emergency funds through

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the Emergency Deficiency Correction Fund, A.R.S. §15-2022, that can be used to meet facility costs in order to meet Minimum Guidelines.

The Court finds that only Sierra Vista has applied for additional funds under available sources of funding to allow each school district to meet the Minimum Guidelines. The Court finds that until each plaintiff has attempted to obtain all available funds from the State their claim is premature and not yet ripe.

For this reason, the Court finds that at this time defendant is entitled to summary judgment; however, if plaintiffs are denied emergency funds and when they have exhausted all available sources of funding through the State, the Court finds that their claims may be reinstated. Accordingly,

IT IS ORDERED granting defendant's Motion for Summary Judgment.

IT IS FURTHER ORDERED vacating the Trial Management Conference set for October 13, 2006 and the trial date of October 30, 2006.